

Chapter 4.

Classification and Marking

Section 1. Classification

4-100. General. Information is classified pursuant to E.O. 12356 by an original classification authority and is designated and marked as TOP SECRET, SECRET, or CONFIDENTIAL. The designation UNCLASSIFIED is used to identify information that does not require a security classification. Except as provided by statute, (see Chapter 9) no other terms may be used to identify classified information. An original classification decision at any level can be made only by a U.S. Government official who has been delegated the authority in writing. Original classification decisions may require a security classification guide to be issued for use in making derivative classification decisions. Contractors make derivative classification decisions based on the guidance provided by the Contract Security Classification Specification that is issued with each classified contract.

4-101. Original Classification. A determination to originally classify information may be made only when: (a) The information falls into one or more of the categories set forth in E.O. 12356, and (b) The unauthorized disclosure of the information, either by itself or in context with other information, reasonably could be expected to cause damage to the national security.

4-102. Derivative Classification Responsibilities.

Contractors who, extract, or summarize classified information, or who apply classification markings derived from a source document, or as directed by a classification guide or a Contract Security Classification Specification, are making derivative classification decisions. The FSO shall ensure that all employees authorized to perform derivative classification actions are sufficiently trained and that they possess, or have ready access to, the pertinent classification guides and/or guidance necessary to fulfill these important actions. Any specialized training required to implement these responsibilities will be provided by the CSA upon request.

- a. The manager or supervisor at the operational level where material is being produced or assembled shall determine the necessity, currency, and accuracy of the classification applied to that material.

- b. The manager or supervisor whose signature or other form of approval is required before material is transmitted outside the facility shall determine the necessity, currency, and accuracy of the security classification applied to that material.
- c. Individual employees who copy or extract classified information from another document, or who reproduce or translate an entire document, shall be responsible for (1) Marking the new document or copy with the same classification markings as applied to the information or document from which the new document or copy was prepared and (2) Challenging the classification if there is reason to believe the information is classified unnecessarily or improperly.
- d. Questions on the classification assigned to reference material are referred as indicated in paragraph 11-206.
- e. Commensurate with their involvement, security classification guidance, shall be provided to all employees, including but not limited to, other cleared locations, sales, marketing, technical, production, accounting, clerical, and overseas personnel who have access to classified information in connection with performance on a classified contract.
- f. Appropriate security classification guidance shall be provided to subcontractors in connection with classified subcontracts. Subcontractors assume the security classification responsibilities of prime contractors in relation to their subcontractors. (See Chapter 7 for Subcontracting.)

4-103. Security Classification Guidance. The GCA is responsible for incorporating appropriate security requirements clauses in a classified contract and for providing the contractor with the security classification guidance needed during the performance of the contract. This guidance is provided to a contractor by means of the Contract Security Classification Specification. The Contract Security Classification Specification must identify the specific elements of classified information

involved in the contract which require security protection. Contractors shall, to the extent practicable, advise and assist in the development of the original Contract Security Classification Specification. It is the contractor's responsibility to understand and apply all aspects of the classification guidance. Classification guidance is, notwithstanding the contractor's input, the exclusive responsibility of the GCA, and the final determination of the appropriate classification for the information rests with that activity. The Contract Security Classification Specification is a contractual specification necessary for performance on a classified contract. If a classified contract is received without a Contract Security Classification Specification, the contractor shall advise the GCA.

- a. The GCA is required to issue an original Contract Security Classification Specification to a contractor in connection with an IFB, RFP, RFQ, or other solicitation; and with the award of a contract that will require access to, or development of, classified information in the performance of the classified contract.
- b. The GCA is required to review the existing guidance periodically during the performance stages of the contract and to issue a revised Contract Security Classification Specification when a change occurs to the existing guidance or when additional security classification guidance is needed by the contractor.
- c. Upon completion of a classified contract, the contractor must dispose of the classified information in accordance with Chapter 5, Section 7. If the GCA does not advise to the contrary, the contractor may retain classified material for a period of 2 years following completion of the contract. The Contract Security Classification Specification will continue in effect for this 2-year period. If the GCA determines the contractor has a continuing need for the material, the GCA must issue a final Contract Security Classification Specification for the classified contract. A final specification is provided to show the retention period and to provide final disposition instructions for the classified material under the contract.

4-104. Challenges to Classification. Contractors who believe (a) That information is classified improperly or unnecessarily; or (b) That current security considerations justify downgrading to a lower classification or upgrading to a higher classification; or (c) That the security classification guidance provided is improper or inadequate, are required to discuss such issues with the pertinent GCA for remedy. If a solution is not forthcoming, and the contractor believes that corrective action is

still required, a formal challenge shall be made to the agency that originally classified the information. Such challenges **shall** include a description sufficient to identify the issue, the reasons why the contractor believes that corrective action is required, and any recommendations for appropriate corrective action. In any case, the information in question shall be **safeguarded** as required by this Manual for its assigned or proposed level of classification, whichever is higher, until action is completed. If **no** answer is received within 45 days, the CSA may be requested to provide assistance in obtaining a response. The fact that a contractor has initiated such a challenge will not, in any way, serve as a basis for adverse action by **the** Government. If a contractor believes that adverse action did result from a classification challenge, full details should be furnished promptly to the ISOO for resolution.

4-105. Contractor Developed Information. Whenever a contractor develops an unsolicited proposal or originates information not in the performance of a classified contract, the following rules shall apply:

- a. If the information was previously identified as classified, it shall be classified in accordance with an appropriate Contract Security Classification Specification, classification guide, or source document and marked as required by this Chapter.
- b. If the information was not previously classified, but the contractor believes the information may, or should, be classified, the contractor should protect the information as though classified at the appropriate level and submit it to the agency that has an interest in the subject matter for a classification determination. In such a case, the following marking, or one that clearly conveys the same meaning, may be used:

CLASSIFICATION DETERMINATION PENDING-
Protect as though classified (TOP SECRET, SECRET, or CONFIDENTIAL).

This marking shall appear conspicuously at least once on the material but no further markings are necessary until a classification determination is received. In addition, contractors are not precluded from marking such material as company-private or proprietary information. Pending a final classification determination, the contractor should protect the information. It should be noted however, that E.O. 12356 prohibits classification of information over which the Government has no jurisdiction. To be eligible for classification, the information

must (1) Incorporate classified information to which the contractor was given prior access, or (2) The Government must first acquire a proprietary interest in the information.

4-106. Classified Information Appearing in Public Media. The fact that classified information has been made public does not mean that it is automatically declassified. Contractors shall continue the classification until formally advised to the contrary. Questions as to the propriety of continued classification in these cases should be brought to the immediate attention of the W A .

4-107. Downgrading or Declassifying Classified Information. Information is downgraded or declassified based on the loss of sensitivity of the information due to

the passage of time or on occurrence of a specific event. Contractors downgrade or declassify information based on the guidance provided in a Contract Security **Classification** Specification, upon formal notification, or as shown on the material. These actions constitute implementation of a directed action rather than an exercise of the authority for deciding the change or cancellation of the classification. At the time the material is actually downgraded or declassified, the action to update records and change the classification markings shall be initiated and performed. Declassification, either automatically or by individual review, is not automatically an approval for public disclosure.